

JEB STEWART LINEBERRY                    §  
VS.                                                 §      CIVIL ACTION NO. 5:08cv126  
UNITED STATES OF AMERICA                §

Jeb Stewart Lineberry, an inmate confined within the Bureau of Prisons, proceeding *pro se*, filed the above-styled petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. Petitioner filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. See FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit. Petitioner currently has a motion to vacate, set aside or correct sentence filed pursuant to 28 U.S.C. § 2255 pending which challenges the same convictions which are challenged in the current petition and includes the ground for review asserted in the current petition. The magistrate judge correctly concluded that the interests of judicial economy favor dismissing this action because of the waste of judicial resources resulting from having the same issue pending before two courts at the same time. In addition, as petitioner currently has a motion to vacate pending, he is unable to demonstrate at this time that Section 2255 is an ineffective means by which to challenge his convictions. As a result, the current petition will be dismissed. The dismissal is without prejudice to petitioner's ability to refile his petition if his motion to vacate, set aside or correct sentence is not resolved in his favor.

#### O R D E R

Accordingly, the objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct

and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered dismissing this petition.

**SIGNED this 2nd day of July, 2010.**

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM  
UNITED STATES DISTRICT JUDGE